

**RULES
OF THE
TENNESSEE DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT**

**CHAPTER 0800-02-22
BOARD OF WORKERS' COMPENSATION APPEALS**

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0800-02-22-.01 FILING THE REQUEST FOR APPEAL.

- (1) Any party may appeal any order of a workers' compensation judge by filing a request for appeal, on a form approved by the Division, with the clerk. The request for appeal must be filed:
 - (a) Within seven (7) business days of the date the order was entered by the workers' compensation judge if the order appealed is interlocutory; or
 - (b) Within thirty (30) calendar days of the date the order was entered by the workers' compensation judge for appeal of a compensation order.
- (2) A copy of the request for appeal must be served upon the opposing party.
- (3) Upon receipt of a request for appeal of an interlocutory order, the clerk shall assemble the record from the judge and submit the appeal to the board of appeals for review. No transcript is required to be filed. Within seven (7) business days of the date the appeal is submitted to the board by the clerk, the board shall review the record and enter an opinion affirming or reversing the decision of the judge. The opinion of the appeals board shall not be subject to further appeal.
- (4) For an appeal of a compensation order, within fifteen (15) calendar days after the request for appeal is filed, the party that filed the request for appeal shall file a copy of the transcript of the proceedings before the workers' compensation court or shall file notice that no transcript will be provided. A copy of this transcript or notice shall be served upon the opposing party. The party may file a statement of the evidence in lieu of a transcript. The following additional rules shall apply:
 - (a) Upon receipt of a request for appeal, the clerk shall forward a copy of the request for appeal and the transcript or statement of the evidence, if any, to the workers' compensation judge that issued the order.
 - (b) Within ten (10) business days after receiving a copy of the notice of appeal and the transcript or statement of the evidence, the judge shall review the information provided by the clerk and determine whether the transcript or statement of the evidence accurately reflects the proceedings at the hearing. Thereafter, the judge shall review the case record to ensure that it is complete, compile the contents of the record and forward the record to the clerk for submission to the board of appeals.
 - (c) If a transcript or statement of the evidence is not timely filed, the workers' compensation judge may certify the record of proceedings if the judge believes that the record provides an accurate reflection of the proceedings that occurred at trial. If the judge determines that the record cannot be certified, the workers' compensation judge

(Rule 0800-02-22-.01, continued)

may either deny the request for appeal or issue an order compelling the party who filed the appeal to provide a copy of the transcript or a statement of the evidence.

- (5) Any request for appeal that is not received by the clerk within the time provided by paragraph (1) will be dismissed.
- (6) A request for appeal that is not timely filed will not toll the statute of limitations for filing an appeal to the Supreme Court pursuant to T.C.A. § 50-6-225(a)(1).

Authority: T.C.A. § 4-3-1409; Public Chapter 289 (2013), Sections 73, 79, 80, 83, and 106.

Administrative History: Original rule filed April 1, 2014; effective June 30, 2014.

0800-02-22-.02 DOCKETING APPEAL, FILING BRIEFS AND RENDERING DECISION.

- (1) The board of workers' compensation appeals will docket the appeal upon receipt of the record from the clerk of the court of workers' compensation claims.
- (2) After the record is received by the board, the appeal shall be docketed and assigned to an appeals board judge for review. A docketing notice shall be sent to all parties.
- (3) For appeals of compensation orders, the parties shall have fifteen (15) calendar days after the docketing notice provided in paragraph (2) is issued to submit briefs to the board for consideration. Review on appeal of interlocutory orders shall be on the record and briefing shall not be required. However, any party opposing the appeal of an interlocutory order may submit a response, in accordance with rules provided by the board, for consideration.
- (4) After the fifteen (15) calendar day period for the filing of briefs ends, or for appeals of interlocutory orders, after the appeal is filed, the board shall issue its decisions either certifying the order of the workers' compensation judge or remanding the case for further proceedings within:
 - (a) Seven (7) business days for an appeal of an interlocutory order awarding or denying temporary disability or medical benefits; or
 - (b) Forty-five (45) calendar days for an appeal of a compensation order issued pursuant to T.C.A. § 50-6-239(c)(2).
- (5) In rendering its decision, the board shall base its decision on a review of the record and the briefs or responses of the parties, if any. No oral argument shall be allowed.
- (6) Immediately upon issuing a decision on any appeal, the board shall forward a copy of the decision to the parties by regular or electronic mail.
- (7) Interlocutory orders.
 - (a) If the board affirms an interlocutory order awarding temporary disability or medical benefits, the employer shall begin making payments of benefits within five (5) business days from the date the opinion affirming the order is issued by the appeals board. Failure to begin benefit payments within five (5) business days may result in the assessment of a civil penalty pursuant to T.C.A. § 50-6-118.
 - (b) Following the issuance of a decision either affirming or remanding an interlocutory order of temporary disability benefits, the claim shall continue in the manner provided by T.C.A. § 50-6-239 and by these rules.
- (8) Compensation orders.

(Rule 0800-02-22-.02, continued)

- (a) If the board remands the case following an appeal of a compensation order, the clerk shall send a docketing notice to the parties, by regular or electronic mail, setting forth the procedure for preparing for and scheduling the hearing. The clerk shall also return the record to the previously assigned judge, unless otherwise directed by the Chief Judge.
- (b) If the board certifies a compensation order as final, the time for filing an appeal to the supreme court pursuant to T.C.A. § 50-6-225 shall begin to run on the date the order is certified as final by the board. If no further appeal is filed, the compensation order shall become final and binding in thirty (30) calendar days and the benefits provided through the compensation order must be paid within five (5) business days after the order becomes final.

Authority: T.C.A. § 4-3-1409; Public Chapter 289 (2013), Sections 73, 79, 80, 83, and 106.

Administrative History: Original rule filed April 1, 2014; effective June 30, 2014.

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0800-02-22-.03 APPEAL OF WORKERS' COMPENSATION CASES FILED AGAINST THE STATE.

The board of workers' compensation appeals is without jurisdiction to consider an appeal of any decision of the claims commission either awarding or denying workers' compensation benefits to a state employee.

Authority: T.C.A. §§ 4-3-1409, 9-8-307, and 9-8-402. **Administrative History:** Original rule filed April 1, 2014; effective June 30, 2014.